

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

---

THE TEN EYCK MINERAL TRUST,  
BY C. ANDREW TEN EYCK, TRUSTEE,

Case No.: 1:14-cv-00201

Plaintiff,

Honorable Gordon J. Quist

vs.

CHESAPEAKE ENERGY CORPORATION,  
SILVER LAKE ENERGY, LLC,  
ENCANA CORPORATION and  
ENCANA OIL & GAS, (USA) INC.

Defendants.

---

**PLAINTIFF TEN EYCK MINERAL TRUST'S MOTION FOR LEAVE TO FILE A  
REPLY TO CHESAPEAKE ENERGY CORPORATION AND SILVER LAKE'S  
OPPOSITION TO PLAINTIFF'S OMNIBUS MOTION FOR RECONSIDERATION AND  
FOR LEAVE TO AMEND (DKT. # 42)**

Plaintiff Ten Eyck Mineral Trust ("Ten Eyck"), by its attorneys, Warner Norcross & Judd LLP, moves this Court for leave to file a reply to Defendant Chesapeake Energy Corporation and Silver Lake Energy LLC's ("Chesapeake") Opposition to Plaintiff's Omnibus Motion for Reconsideration and for Leave to Amend. (Dkt. # 42.)

On November 18, 2014, Ten Eyck filed its motion for partial reconsideration of this Court's dismissal of its breach of contract claim, or, in the alternative, for leave to amend its Complaint. (Dkt. # 38.) Chesapeake filed its response to Ten Eyck's motion on January 5, 2015. (Dkt. # 42.) In its response, Chesapeake argues that Ten Eyck's motion for leave to amend should be denied because allowing its pre-answer amendment would unduly prejudice Chesapeake based on Ten Eyck's alleged "undue delay," and that the proposed amendment is futile. (*Id.*) Ten Eyck could not have anticipated the specific bases for Chesapeake's opposition to Ten Eyck's request for leave to amend, and has not had any opportunity to respond to these

arguments, which were raised for the first time in Chesapeake's 30 page long opposition brief.

Ten Eyck respectfully requests leave under Local Rule 7.3(c) to file a reply to Chesapeake's January 5 brief for the purpose of responding to Chesapeake's arguments in opposition to Ten Eyck's request for leave to file the proposed First Amended Complaint. If the Court deems leave appropriate, Ten Eyck requests that its reply be due not later than fourteen (14) days after the Court issues an order permitting such a reply.

Plaintiff's counsel certifies that they have sought Defendants' concurrence in the relief requested in this motion under Rule 7.1(d). Defendants Encana Corporation and Encana Oil & Gas, Inc. have indicated that they will not oppose the motion, but concurrence from Defendants Chesapeake Energy Corporation and Silver Lake Energy, LCC was not obtained.

Dated: January 7, 2014

By: /s/ Lance R. Zoerhof  
Brian J. Masternak (P57372)  
Charles N. Ash, Jr. (P55941)  
Lance R. Zoerhof (P63980)  
David R. Whitfield (P73352)  
900 Fifth Third Center  
111 Lyon Street NW  
Grand Rapids, MI 49503-2487  
bmasternak@wnj.com  
cash@wnj.com  
lzoerhof@wnj.com  
dwhitfield@wnj.com  
616.752.2000